

21



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,053	08/19/2003	Jeff Sweeney	028924.027	5142

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SMITH, GAMBRELL & RUSSELL, LLP
1230 PEACHTREE STREET, N.E.
SUITE 3100, PROMENADE II
ATLANTA, GA 30309-3592

EXAMINER

STERLING, AMY JO

ART UNIT PAPER NUMBER

3632

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,053

Applicant(s)

SWEENEY ET AL.

Examiner

Amy J. Sterling

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 and 30-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 30-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is the **Final Office Action** for application number 10/644,053 Multi-Piece Nestable Equipment Base, filed on 8/19/03. Claims 1-27,30-37 are pending. This **Final Office Action** is in response to applicant's reply dated 8/15/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-27 and 30-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 18 both recite, "a core" or a "hollow core" which appears to be a separate element which is renders the claim indefinite, since the "core" is clearly the pad and the removable support structure acting together and not a separate element.

Claim Rejections - 35 USC § 102

Claims 1, 7 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4,399,972 to McCulloch.

Art Unit: 3632

McCulloch discloses a pad (2) having a top surface (8) and a plurality of side surfaces (14) forming respective angles with the top surface that differ from ninety degrees, defining a hollow core (the core is not a separate element, but is the pad and the rib structure acting together. McCulloch also teaches a removable support feature mating with the core which is a ribbing insert and an adhering means (column of the limitations of the claimed invention except for the pad).

Claim Rejections - 35 USC § 103

Claims 2-6, 17 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 4,399,972 to McCulloch.

McCulloch discloses all of the claimed invention with the exception that it does not disclose the specific materials of plastic, composite, wood or metal. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used any suitable material, since it has been held to be within the general skill in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. The expense of the material not given any patentable weight due to its subject matter.

Claims 8-16, 24-27 and 30-37 and are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 4,399,972 to McCulloch as applied to claims 1 and 18 and in view of United States Patent No. 5664394 to Sweeney.

Art Unit: 3632

McCulloch discloses all of the claimed invention including that the ribbing may be removed from the hollow core. McCulloch does not teach that the inserts are snap-fit, may be stacked independently with one or more support ribbings, may be reused with another pad, wherein the pads are generally the same shape and includes a feature for contacting the ground.

Sweeney teaches and insert (32) that is snap-fit together on a pad (31) which may be stacked independently with one or more support ribbings, may be reused with another pad, wherein the pads are generally the same shape and includes a feature for contacting the ground. This configuration used so that the devices may be stacked together. Therefore it would have been obvious to one of ordinary skill in the art to have taught that the devices were stackable together.


Conclusion


THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later

Art Unit: 3632

than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached at 571-272-6788. The fax machine number for the Technology center is 571-273-8300 (formal amendments) or 571-273-6823 (informal amendments and communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.

AJS 
Amy J. Sterling
10/18/05

 10/26/05
ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600